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REMARKS

Claims 1-18 are pending in the application. Claims 1-18 were rejected in the Office Action. The Applicants request reconsideration and withdrawal of the outstanding rejections for the reasons set forth below.

Claim Rejections under 35 U.S.C. 102:

Claims 1-2, 5-7, 11-12 and 14-16 were rejected under 35 U.S.C. §102(b) as being anticipated by Eckles et al., US 4,326,940 (hereinafter "Eckles") for the reasons stated on pages 2 and 3 of the Office Action.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the * * * claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988).

Moreover, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984).

Claim 1 recites a "system for controlling the operation of equipment, said operation of said equipment being adjustable via at least one parameter setting, comprising: ... an access device being in communication with said control host, said access device checking said operations analysis and said adjustment of said at least one

parameter, and overriding said control host to provide corrective parameter settings for said equipment when control loop mechanism provided by said system is drifting."

In Claim 1, when the "control loop mechanism provided by said system is drifting," the "access device ... overrides[ing] said control host to provide corrective parameter settings for said equipment."

Eckles discloses automatic analyzing systems for electroplating baths. Although Eckles discloses controlling the addition of additives to a bath to maintain the chemical nature of the bath, Eckles does not disclose or teach a device for "overriding said control host to provide corrective parameter settings" for controlling and correcting the settings of the addition of the additives to the bath.

Thus, Eckles neither discloses nor teaches the element: "an access device being in communication with said control host, said access device checking said operations analysis and said adjustment of said at least one parameter, and overriding said control host to provide corrective parameter settings for said equipment when a control loop mechanism provided by said system is drifting," as recited in Claim 1. Accordingly, Eckles does not anticipate or render obvious Claim 1.

Claim 11 recites a "method for controlling the operation of equipment, said operation of said equipment being adjustable via at least one parameter setting, comprising ... checking said operations analysis and said adjustment of said at least one parameter, and overriding said adjustment and providing corrective parameter settings for said equipment when a control loop mechanism of said equipment is drifting."

Claim 11 is believed to be allowable for at least the reasons given for Claim 1.

Claims 2 and 5-7 depend from Claim 1, and Claims 12 and 14-16 depend from Claim 11. Claims 2, 5-7, 12 and 14-16 are believed to be allowable due to their dependencies on Claims 1 and 11, respectively.

The Examiner asserts that the "access device" of the Applicants' claims 1 and 11 is considered a functional limitation in that it allegedly defines an apparatus by what it does, rather than by what it is. The Examiner indicates that the structure (i.e., access device) is substantially identical to the structure (i.e., microprocessor 4) of the Eckles reference and consequently, the structure of the Eckles reference inherently performs the functions recited in the Applicants' invention. The Applicants respectfully disagree.

In order to support an anticipation rejection based on inherency, an Examiner must provide factual and technical grounds establishing that the inherent feature necessarily flows from the teachings of the prior art. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int. 1990); *In re Oelrich*, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981) (holding that inherency must flow as a necessary conclusion from the prior art, not simply a possible one). Moreover, the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result of characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993). Applicants submit that the Examiner has not made a prima facie case of anticipation of Applicants claims 1 and 11 based on inherency.

The access device of the Applicants invention as recited in claims 1 and 11, communicates with the control host, checking the operations analysis and adjustments performed on the equipment, and overrides the decisions of the control host to provide corrective parameter settings for the equipment when a 'drifting' occurs during the control loop.

While both the access device of the instant application and the microprocessor of the Eckles reference may include a computer processor, such similarities end there. Contrary to the access device of the Applicants invention, the microprocessor of the Eckles reference performs several functions, none of which even remotely relate to the functions of the access device. For example, microprocessor 4 monitors "several processes, i.e. several electroplating baths...[by taking]...plural flow streams of liquid..., one from each monitored bath, and a single sample selection valve 20 that is controlled by the microprocessor 4 is employed to switch process streams, i.e., selectively to deliver

a respective stream for analysis. The valve 20 preferably operates or switches in response to pneumatic signals on pneumatic lines 21, 22, which are coupled to the microprocessor controller 4" (co. 4, lines 53-64). Related flow path, pump, and valve activities are managed by the microprocessor (see generally, col. 5, line 14 to col. 6, line 34). Further functions are expressly recited throughout the Eckles reference such as keeping "track of time with good precision; it should be able to control the high pressure pumps 85, 86 so that they provide a constant flow; it should be able to control the mobile phase solvent mixtures; it should activate the sample selection valve 20 at specified time intervals, for example by controlling delivery of a pneumatic fluid such as inert nitrogen 92, through the pneumatic lines 21, 22; it must actuate the high pressure sample injection valve 50 by controlling the supply of pneumatic fluid to lines 67, 68 at specified time intervals; and optionally, it can turn on and off a variety of devices, including, for example, the high pressure pumps 85, 86, the peristaltic pump 33, the detectors in the detector system 5, and the recorder 13, and it may signal the beginning of an event, such as sample injection, for the recorder 13, for another recorder in the data acquisition and utilization device 14, another microprocessor computer associated with the device 14, etc." (col. 7, line 67 to col. 8, line 21).

Thus, the features recited in the instant application (i.e., communicating with the control host, checking the operations analysis and adjustments performed on the equipment, and overriding the decisions of the control host to provide corrective parameter settings for the equipment when a 'drifting' occurs during the control loop) are not inherently found in the Eckles reference simply because both references may include a microprocessor. Accordingly, the Applicants submit that the Examiner has not made a prima facie case of inherency with respect to the access device limitation provided in Applicants' claims 1 and 11. The Applicants further submit that claims 1 and 11 are in condition for allowance and respectfully request reconsideration of the outstanding rejections.

Claim Rejections under 35 U.S.C. 103:

Claims 3-4, 8-9, 13 and 17

Claims 3-4, 8-9, 13 and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Eckles in view of Reid, US 6,458,262 B1 (hereinafter "Reid") for the reasons stated on pages 3-5 of the Office Action.

Reid discloses controlling electroplating processes based on plating bath composition data, however, Reid does not teach or suggest a device for "overriding said control host to provide corrective parameter settings" to control the results of a computer and correcting the control of the computer as taught by Claim 1. Thus, Reid neither teaches nor suggests the element: "an access device in communication with said control host, said access device checking said operations analysis and said adjustment of said at least one parameter, and overriding said control host to provide corrective parameter settings for said equipment when a control loop mechanism provided by said system is drifting," as recited in Claim 1. Accordingly, Reid does not cure the deficiency of Eckles.

Thus, the combination of Eckles and Reid does not render Claim 1 obvious.

Claim 11 is believed to be allowable over the combination of Eckles and Reid for at least the reasons given for Claim 1.

Claims 3-4 and 8-9 depend from Claim 1, and Claims 13 and 17 depend from Claim 11. Claims 3-4, 8-9, 13 and 17 are believed to be allowable due to their dependencies on Claims 1 and 11, respectively.

Claims 10 and 18

Claims 10 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Eckles in view of Forand et al., US 5,476,578 A (hereinafter "Forand") for the reasons stated on page 5 of the Office Action.

Forand discloses wiping the catholic coating surface of sheet during continuous electroplating. Although Forand discloses information about an electroplating process, Forand does not disclose or teach "monitoring said operation of said equipment " and "adjusting said at least one parameter" as recited in Claims 1 and 11. Further, Forand does not teach "an access device ...overriding said control host to provide corrective parameter settings for said equipment as recited in Claim 1, nor "overriding said adjustment and providing corrective parameter settings" as recited in Claim 11.

Thus, Forand does not cure deficiencies of Eckles and Ride. Accordingly, the combination of Eckles, Ride and Forand does not render Claims 1 and 11 obvious.

Claim 10 depends from Claim 1, and Claim 18 depends from Claim 11. Thus, Claims 10 and 18 are believed to be allowable due to their dependencies on Claims 1 and 11, respectively.

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Conclusion

In view of the foregoing amendments and remarks, Applicants submit that the above-identified application is now in condition for allowance. Early notification to this effect is respectfully requested.

If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130 maintained by Applicants' attorneys.

Respectfully submitted,

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